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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/725,393

11/29/2000

Amab Das

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EXAMINER

MYERS, PAUL R

ART UNIT

PAPER NUMBER

2111

MAIL DATE

DELIVERY MODE

01/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/725,393	DAS ET AL.	
	Examiner	Art Unit	
	Paul R. Myers	2111	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-14 and 16-24 have been considered but are moot in view of the new ground(s) of rejection.

Applicants amendment has overcome the Bruckman reference in that Bruckman does not teach the puncturing or the repeating as now defined. However a new search was performed and both the puncturing and the repeating as now defined was found in the prior art.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14, 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rathonyi et al PN 6,359,877 in view of and Tiedemann, Jr. et al PN 5,914,950.

In regards to claims 1, 2, 14, 18, 21, 24: Rathonyi et al teaches a method of transmitting data comprising the steps of: channel coding an encoder packet to produce a channel coded encoder packet (Column 3 line 62 to column 4 line 9 and Column 5 lines 48-58); and puncturing and/or repeating the channel coded encoder packet to produce a first encoder sub-packets (Figures 3A-3C) having a first size based on a size of the encoder packet and a first data transmission rate at which the first encoder sub-packet is to be transmitted (300 and 310), the puncturing including removing bits from the channel coded encoder packet and the repeating

including duplicating bits in the channel coded encoder packet. (Column 3 line 62 to column 4 line 9 and Column 5 lines 48-58), Rathonyi et al does not teach the rate based upon a rate from the receiver wherein the first data transmission rate is different from and based on a data rate for transmitting the first encoder sub-packet indicated in a first rate indication message from a receiver. Tiedemann, Jr. et al teaches the transmitter selection a transmission rate that is different from and based upon the desired maximum transmission rate of the receiver (Column 11 lines 43-64). It would have been obvious to use a data transmission rate that is different from and based upon the desired maximum transmission rate of the receiver because this would have taken into account factors such as power requirements and other transmitters (see Tiedemann, Jr. et al Column 11 lines 43-64). The examiner notes Rathonyi et al states the rate is determined then the size is determined therefrom but these steps can be performed in reverse order (Column 11 lines 1-12).

In regards to claim 3: Rathonyi et al teaches soft combining (Figure 5B).

In regards to claim 4: Rathonyi et al teaches packets of different sizes (packets 2 and 9)

In regards to claim 5: Rathonyi et al teaches packets of the same size (packets 2 and 4).

In regards to claims 6, 7: Rathonyi et al teaches including a sequence number that indicates the packet size from which the packet was derived (Column 7 line 65 to column 8 line 57).

In regards to claims 8, 11-12: Rathonyi et al teaches different modulation techniques based upon the selected transmission rate (Column 3 line 62 to Column 4 line 9 and Column 5 lines 48-58).

In regards to claims 9, 13, 16, 20, 23: Rathonyi et al teaches the rate information is received by the receiver prior to the packet (Column 9 line 23 to Column 10 line 30 particularly Column 10 lines 18-30).

In regards to claims 17, 19, 22: Rathonyi et al teaches a NACK (Figure 5B).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul R. Myers whose telephone number is 571 272 3639. The examiner can normally be reached on Mon-Thur 6:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (571) 272-3632. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PRM
January 14, 2008



PAUL R. MYERS
PRIMARY EXAMINER